

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KEVIN A. TOLLIVER, *et al.*,

Plaintiffs,

vs.

Civil Action 2:08-cv-00722

Judge Edmund A. Sargus, Jr.

Magistrate Judge E.A. Preston Deavers

**TERRY COLLINS, Director
O.D.R.C., *et al.*,**

Defendants.

ORDER

This matter is before the Court for consideration of the December 3, 2010 Report and Recommendation of United States Magistrate Judge Elizabeth A. Preston Deavers, to whom this case was referred pursuant to 28 U.S.C. § 636(b). (ECF No. 111.) The Magistrate Judge, citing Plaintiff Robert O'Donnell's failure to respond to Court orders or to otherwise pursue this litigation, recommends that the Court dismiss Plaintiff Robert O'Donnell's action under Federal Rule of Civil Procedure 41(b).

The Report and Recommendation specifically advises parties that the failure to object to the Report and Recommendation within fourteen days of the Report results in a "waiver of the right to *de novo* review . . . by the District Judge and waiver of the right to appeal the judgment of the District Court." (December 3, 2010 Report and Recommendation, ECF No. 111 at 2-3.) The time period for filing objections to the Report and Recommendation has expired. Plaintiff O'Donnell has not objected to the Report and Recommendation.

The Court has reviewed the Report and Recommendation. Noting that no objections have been filed and that the time for filing such objections has expired, the Court **ADOPTS** the Report and Recommendation. (ECF No. 111.) Accordingly, Plaintiff Robert O'Donnell's action is **DISMISSED WITH PREJUDICE** pursuant to Rule 41(b), and Defendants' Amended Motion to Dismiss Robert O'Donnell as a Party Plaintiff is **DENIED AS MOOT**. (ECF No. 85.) Plaintiff Kevin A. Tolliver's action remains pending.

IT IS SO ORDERED.

1-3-2011
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE